

1 whether that is something that has happened to him.

2 JUDGE ROSAS: You're going to have to make it more
3 specific. Sustained.

4 Q. BY MS. WALKER: To your knowledge, have you ever been
5 terminated for cause from AMS?

6 A. No.

7 MR. HEARING: Objection. Asked and answered.

8 JUDGE ROSAS: Overruled.

9 Q. BY MS. WALKER: Were you told when you were laid off
10 from the Bethune-Cookman project that you were not eligible
11 for rehire or recall?

12 A. No.

13 Q. Were you laid off from the Universal job or the job near
14 Universal that you were working for AMS for the first time?

15 A. No, I wasn't laid off. They was putting the floors on.
16 And I guess they had told us they were going to be like a
17 week or something we're laid off, to come back. And within
18 that week that I was off, I just found something else to do,
19 and I didn't go back.

20 MS. WALKER: That's all I have, Your Honor.

21 MR. HEARING: I'd make inquiry for a Jencks production.

22 MS. LEONARD: There is one affidavit that was provided
23 by the Union, objections.

24 JUDGE ROSAS: Off the record.

25 (Off the record from 11:12 a.m. to 11:14 a.m.)

1 JUDGE ROSAS: On the record.

2 CROSS-EXAMINATION

3 Q. BY MR. HEARING: You have a parking business in Orlando,
4 correct?

5 A. A what kind of business?

6 Q. Parking.

7 MS. WALKER: Objection. Exceeds the scope of direct.

8 JUDGE ROSAS: I'll allow it.

9 THE WITNESS: No, I ain't got no business. We park -- I
10 park cars, though, but it's not a business.

11 Q. BY MR. HEARING: All right. And you do that in Orlando,
12 correct?

13 A. Yes.

14 Q. That caused you to miss Mondays frequently on the job at
15 AMS, correct?

16 A. No. I parked cars on the weekend.

17 Q. You had soccer events -- you do it for soccer events;
18 isn't that correct?

19 A. No. Doing it for --

20 Q. Never did it for soccer events?

21 A. No.

22 Q. You never told that to Turbo?

23 A. Not for no soccer, no.

24 Q. You do events on Sundays in Orlando where you park cars?

25 A. Yeah, but it's for the Center Hall.

1 Q. You told Turbo about that, right?

2 A. About where?

3 Q. About doing that.

4 A. I didn't tell Turbo. I told guys on the job there. I
5 didn't tell Turbo.

6 Q. Do you remember missing a lot of Mondays on the job
7 because of that obligation you had in Orlando on Sundays?

8 A. No, I didn't miss no Mondays on the job for that.

9 Q. You remember leaving the job early because you had
10 obligations with regard to the parking business?

11 A. No.

12 Q. Do you have any records of the time that you put in back
13 in January -- December of 2015 and January of 2016?

14 A. Time I put in where, on the jobsite?

15 Q. Yes, sir.

16 A. Check stubs. They're home, though.

17 Q. You remember that Turbo had to tear down some of the
18 walls that you did and redo them?

19 A. No, Turbo never tore down a wall I did. They had
20 somebody else that worked there had tore one wall down that I
21 did. They say I did, but I can't recall I did or not because
22 so many people worked on the same wall that I worked on.

23 Q. So you recall one wall that was torn down, and you're
24 not sure whether you worked on that wall?

25 A. Right.

1 Q. So you deny that Turbo had to tear down walls that you
2 built on the Bethune-Cookman job?

3 A. Yes, I deny it.

4 Q. Did you get along with Turbo?

5 A. Yeah, I had no problem with him.

6 Q. And you say it was Turbo that laid you off?

7 A. He had laid me off where he told me to go draw
8 unemployment one Friday that we got off work because the
9 block, we was just about done over there and they was
10 starting on bricks, and I don't lay bricks.

11 Q. You worked on 8-inch brick on Phase 1, didn't you?

12 A. No, I didn't work on the brick on none of these jobs. I
13 only worked on blocks.

14 Q. When I was talking about tearing down walls, I was
15 talking about brick walls. Did you work on brick walls that
16 were torn down?

17 A. No. I don't lay brick.

18 Q. How many masons were still on the job when you claim you
19 were laid off?

20 A. There's a lot of masons because they'll start laying
21 bricks on the same building I was on. I was laying blocks,
22 and it was coming to a finish up on the blocks. They didn't
23 have many more blocks to lay on there, and they were laying
24 bricks out there at the same time.

25 Q. So how many would that be that would be laying bricks?

1 A. It's like a whole crew laying bricks, probably like at
2 12 or 13 masons or maybe more.

3 Q. How many were laying block with you?

4 A. About 30 or 40 people.

5 Q. You didn't apply for unemployment, right?

6 A. No.

7 Q. That's correct?

8 A. Yes, that's correct. I did not apply for unemployment.

9 Q. You went to -- you got another job apparently real
10 quick; is that right?

11 A. Yes.

12 Q. Then you said you were recently rehired by Bob Dutton?

13 A. Well, I wouldn't, you know, about Bob, but Alek sent me
14 to the job.

15 JUDGE ROSAS: Eric?

16 THE WITNESS: Alek.

17 JUDGE ROSAS: Alek, Alek Feliz?

18 THE WITNESS: Yes. I don't know his last name. I just
19 know him by Alek.

20 Q. BY MR. HEARING: He sent you to what job?

21 A. The first job he sent me to was behind the Millennium
22 Mall in Orlando.

23 Q. When was this?

24 A. It had to be like maybe 3 weeks ago, 7 weeks ago.

25 Q. Were you hired?

1 A. Yes.

2 Q. Who is your supervisor?

3 A. Oh, man. I can't think of his name. He's a new
4 supervisor that I never met before with AMS. What was his
5 name? I'm not sure.

6 Q. What does Bob Dutton have to do with that? I heard you
7 mention Bob Dutton.

8 A. Because the job we're working on now is under Bob.

9 Q. What is that job?

10 A. That's a block mason job, block job, too, a six-story
11 hotel.

12 Q. It's a six-story hotel?

13 A. Yes.

14 Q. Do you remember being talked to about your poor
15 attendance when you were on the Bethune-Cookman job?

16 A. No. I went to work every day when I was there.

17 MR. HEARING: That's all.

18 JUDGE ROSAS: Any follow-up?

19 MS. WALKER: Just one follow-up.

20 **REDIRECT EXAMINATION**

21 Q. BY MS. WALKER: Mr. Smith, how many masons were laying
22 block on walls at Bethune-Cookman?

23 A. Oh, it's probably about 25 or 30 masons at least.

24 Q. For one wall?

25 A. No, not one wall, for the building. They had side A and

1 side B. So they had masons on the A side, and they had
2 masons on the B side, so I'm estimating a total of masons on
3 the whole job. But on one wall, they usually have like six
4 or seven masons on one wall.

5 MS. WALKER: That's all I have, Your Honor.

6 MR. HEARING: I do have a follow-up.

7 **RECROSS-EXAMINATION**

8 Q. BY MR. HEARING: Are you here under subpoena? Did you
9 get a subpoena to come here?

10 A. Yes.

11 Q. By the Union?

12 A. Yes.

13 Q. Did you talk to Mr. Bontempo?

14 A. Who? Who is that?

15 Q. A gentleman that is not in the room, but the union
16 representative.

17 A. No, I didn't talk to him. I just talked to him a few
18 minutes ago.

19 Q. What were you talking to him about?

20 A. Just about work and stuff like that.

21 MR. HEARING: That's all I have.

22 JUDGE ROSAS: Thank you, sir. You're excused. Please
23 do not discuss your testimony with anyone until you find out
24 the case is over. All right?

25 THE WITNESS: Okay.

1 JUDGE ROSAS: Thank you. Have a good day.

2 THE WITNESS: All right, thank you.

3 **(Witness excused.)**

4 MS. WALKER: Your Honor, would you like me to call my
5 next witness?

6 **(Off the record.)**

7 JUDGE ROSAS: On the record.

8 Next witness?

9 MS. WALKER: Your Honor, Petitioner calls -- recalls
10 Raymond Pearson.

11 JUDGE ROSAS: Sir, I'll remind you, you're still under
12 oath.

13 (Whereupon,

14 **RAYMOND PEARSON**

15 was recalled as a witness by and on behalf of the Charging
16 Party and, having been previously duly sworn, was examined
17 and testified as follows:)

18 JUDGE ROSAS: All right, go ahead.

19 **DIRECT EXAMINATION**

20 Q. BY MS. WALKER: Mr. Pearson, what project did you go to
21 work on after Bethune-Cookman?

22 A. I went to work on a job in Tampa. I forget the name of
23 it.

24 Q. Did the employees refer to it as the yacht club job?

25 A. Yes, that was it.

1 Q. Who was your supervisor on that job?

2 A. Coy.

3 Q. You say Coy, are you referring to Coy Hale?

4 A. Yes.

5 Q. And remember to speak up so we can get it recorded.

6 A. Yes.

7 Q. What were you building on that project?

8 A. Some condos, I believe.

9 Q. Were you laying block or laying brick?

10 A. Brick -- block.

11 Q. How did your employment on that job end?

12 A. Let's see, it's been a long time. But let's see, Coy,
13 Coy come to me and give me my check. I remember that. And I
14 really ain't, I really ain't sure, you know. It's been a
15 long time, and I don't remember.

16 Q. Do you remember if he handed checks to any other
17 employees at the same time he handed you a check?

18 A. He handed one to another dude, yes.

19 Q. Did you quit the job at the yacht club?

20 A. No.

21 Q. Were you told that you were not eligible for rehire or
22 recall?

23 A. No, no. They were -- they were going to, let's see,
24 they were going to -- I called Coy not long before I went to
25 Minnesota and they -- he told me that they would call me when

1 they start the job in Celebration.

2 Q. That's a conversation that you had with Coy Hale?

3 A. Yeah.

4 Q. Did you end up going to the job at the Celebration
5 project?

6 A. No. I end up going to Ohio and then hung there for a
7 month. And then being that we didn't work out, the person
8 that I went to work with, so I end up going to Minnesota.

9 Q. Did you call Coy about the job at Celebration?

10 A. Yes.

11 MS. WALKER: That's all I have, Your Honor.

12 MR. HEARING: I'd just inquire for Jencks production.

13 MS. LEONARD: It is one affidavit.

14 MR. HEARING: Provided by the Union again?

15 MS. LEONARD: Yes, provided by the Union with its
16 objections. It is a page and a half.

17 **(Pause.)**

18 MR. HEARING: I'm ready to proceed, if I may.

19 JUDGE ROSAS: Okay.

20 **CROSS-EXAMINATION**

21 Q. BY MR. HEARING: Mr. Pearson, you said that you're not
22 sure how your employment ended when you were at the Tampa
23 yacht club, Westshore Yacht Club.

24 A. No. I don't remember exactly, but I didn't think -- I
25 feel like I was fired at Bethune-Cookman. I mean I remember

1 that. That is something that --

2 Q. What do you remember about that?

3 A. It was something that the foreman had said, and he told
4 me, he told me I could go back to Kentucky as far as he
5 cared, so that's fired right there. And then --

6 Q. Who was that who told you that?

7 A. Bob.

8 Q. Bob Dutton?

9 A. Yeah.

10 Q. And then you were about to say something else. I
11 interrupted you.

12 A. And then before I made it out of there, out of the
13 parking lot, Alek had -- or no, it was Bontempo told me to
14 call Alek.

15 Q. Alek Feliz?

16 A. I guess.

17 Q. If you don't know his last name, that's fine.

18 A. Yeah. And he's with AMS. He told me to go get ahold of
19 the people out there at the yacht club.

20 Q. Would that have been Coy Hale that you spoke with?

21 A. Yeah.

22 Q. And then you got hired there at the Westshore Yacht
23 Club?

24 A. Yeah.

25 Q. That's the employment that you're not sure how that

1 ended.

2 A. Right. It wasn't really -- he never did really say
3 anything. I just -- I don't remember.

4 Q. Do you remember Mr. Hale having to talk to you a few
5 times about the work that you were doing on laying the block?

6 A. He talked to me once, yeah.

7 Q. And told you he wasn't pleased and he needed to redo it
8 another way?

9 A. I guess.

10 Q. Do you remember that one of the walls you worked on had
11 to be taken down and redone there at the Westshore Yacht
12 Club?

13 A. That wasn't a wall that I had done.

14 Q. You hadn't worked on that one that you remember being
15 taken down?

16 A. I had worked on it, yeah, but the spot where it had to
17 be took down, someone else had laid it up, and they wanted me
18 to fix it. It was, I mean the joints was so little and
19 stuff, I would have had to took it way down, all the way down
20 really to fix that spot.

21 Q. So you were asked to fix it, but did you fix it?

22 A. I didn't take it down far enough, no.

23 Q. Do you remember Mr. Hale having to talk to you about
24 that?

25 A. No, he didn't I don't think.

1 Q. You understood that the wall wasn't repaired correctly?

2 A. Correctly, right, yes.

3 MR. HEARING: That's all I have.

4 JUDGE ROSAS: Any follow-up?

5 MS. WALKER: I do have a little follow-up.

6 **REDIRECT EXAMINATION**

7 Q. BY MS. WALKER: When Mr. Hale gave you the check, he did
8 not say anything to you that indicated you were fired?

9 MR. HEARING: Objection, leading.

10 JUDGE ROSAS: Sustained.

11 Q. BY MS. WALKER: Did Mr. Hale tell you that you were
12 fired when he handed you your check?

13 A. No.

14 Q. Do you know if the employee who had --

15 A. It would have --

16 Q. Wait just a second. Let me ask the question, okay? Do
17 you know if the employee who worked on the wall that you were
18 asked to fix was still on the project when you were handed
19 the check by Mr. Hale?

20 A. No. He was fired. That's the one that they had fired.

21 Q. Do you know what his name is?

22 A. No. It --

23 Q. Wait, let me ask a question. Was anyone else assigned
24 to help you repair the wall?

25 A. No, I don't think. No, no.

1 MS. WALKER: That's all I have, Your Honor.

2 JUDGE ROSAS: Any follow-up?

3 MR. HEARING: Brief.

4 **RECROSS-EXAMINATION**

5 Q. BY MR. HEARING: When Mr. Hale handed you the check, he
6 was handing you the check to let you know that your
7 employment was ending and you weren't coming back, right?

8 MS. WALKER: Objection, assumes facts not in evidence.

9 JUDGE ROSAS: I'll allow that.

10 THE WITNESS: I guess because --

11 Q. BY MR. HEARING: Because after you got the check, you
12 didn't go back, right?

13 A. No. Yeah, because --

14 Q. That's correct?

15 A. Right.

16 MR. HEARING: That's all I have.

17 JUDGE ROSAS: I just want to get a little clarification,
18 sir. You were asked about the wall that you were asked to
19 repair what somebody else had done on the wall, right?

20 THE WITNESS: Right.

21 JUDGE ROSAS: And then you said you didn't take it down
22 far enough?

23 THE WITNESS: Right.

24 JUDGE ROSAS: Can you explain what you mean by that?

25 THE WITNESS: See in the lower courses, if they are

1 bigger than they should be, if the block isn't -- if the
2 blocks are laid like above the line and they're bigger joints
3 at the bottom, then the farther you go up, when you get up
4 here, then you've got to get them way down, be a really small
5 joint. And I just took a couple of courses, like two courses
6 or three courses down. And I put them back. And then it
7 didn't get it down far enough. It didn't -- if I would have
8 took it on down six courses and fixed them joints down at the
9 bottom, then up they would have been all right.

10 JUDGE ROSAS: Okay. Any follow-up?

11 MR. HEARING: One moment to confer.

12 MS. WALKER: I have a follow-up.

13 JUDGE ROSAS: Hold on one second. Charging Party?

14 **FURTHER REDIRECT EXAMINATION**

15 Q. BY MS. WALKER: Did Mr. Hale leave it to your discretion
16 as to how to fix the wall?

17 A. Yeah.

18 Q. He did not instruct you how to repair that wall; is that
19 correct?

20 A. No.

21 MR. HEARING: Objection, leading.

22 JUDGE ROSAS: It was answered anyway with the previous
23 question. Anything else?

24 MS. WALKER: No, Your Honor.

25 JUDGE ROSAS: Anything?

1 MR. HEARING: Nothing further.

2 JUDGE ROSAS: Thank you, sir. You are excused. Do not
3 discuss your testimony with anyone. Okay?

4 THE WITNESS: All right. Thank you.

5 **(Witness excused.)**

6 MS. WALKER: I think we're going to just have one more
7 witness, Your Honor.

8 JUDGE ROSAS: Okay.

9 **(Off the record from 11:37 a.m. to 11:38 a.m.)**

10 **JUDGE ROSAS: On the record.**

11 MS. WALKER: We'll have some exhibits for this witness,
12 so I'll go ahead and pass them all out now.

13 JUDGE ROSAS: Okay. And you're calling?

14 MS. WALKER: Mike Bontempo.

15 JUDGE ROSAS: Sir, I'll remind you, you're still under
16 oath.

17 MR. BONTEMPO: Yes, Your Honor.

18 (Whereupon,

19 **MICHAEL BONTEMPO**

20 was recalled as a witness by and on behalf of the Charging
21 Party and, having been previously duly sworn, was examined
22 and testified as follows:)

23 JUDGE ROSAS: Ready?

24 MS. WALKER: Yes, Your Honor.

25 **DIRECT EXAMINATION**

1 Q. BY MS. WALKER: Mr. Bontempo, as a superintendent, how
2 long would it take for you to determine the competency of a
3 mason?

4 A. Within hours of their first day of work.

5 Q. Are you familiar with George Reed as an employee of AMS?

6 A. Yes, ma'am, I am.

7 Q. Did you refer Mr. Reed?

8 A. Yes, ma'am, I did.

9 Q. Was he a union member?

10 A. Yes, he is.

11 Q. Did you have an opportunity to talk to Mr. McNett about
12 Mr. Reed?

13 A. I did.

14 Q. What caused you to talk to Mr. McNett about Mr. Reed?

15 A. Mr. McNett told me in a verbal conversation that he had
16 an agreement to lay George Reed off and was going to recall
17 him in a prior -- coming up within a short-term layoff, put
18 him on the couch. In the meantime, when Mr. Reed called me
19 to inform me that he was laid off, I found another place for
20 him to go.

21 MR. HEARING: Objection. That's hearsay by Mr. Reed.
22 Move to strike.

23 JUDGE ROSAS: I'm sorry. Mr. Reed called you. Okay.

24 MS. WALKER: Just your conversation with Mr. McNett.

25 JUDGE ROSAS: Yes. So all we have in the record is that

1 Mr. Reed called you, and after that you called Mr. McNett?

2 THE WITNESS: I spoke to Mr. McNett first.

3 JUDGE ROSAS: Okay, go ahead.

4 Q. BY MS. WALKER: Did you speak to Mr. McNett twice or
5 just one time?

6 A. One time.

7 Q. About Mr. Reed?

8 A. Correct.

9 Q. What did Mr. McNett tell you about Mr. Reed?

10 A. That he was laid off, put on the couch temporarily, and
11 when he went to recall him for work, Mr. Reed was already
12 employed somewhere else.

13 Q. What job had Mr. McNett laid Mr. Reed off from?

14 A. Bethune-Cookman University in Daytona Beach.

15 Q. What job did Mr. McNett want to recall Mr. Reed for?

16 A. To the best of my knowledge, the University of Tampa.

17 Q. But between Mr. Reed leaving the Bethune-Cookman College
18 job and the phone conversation you had with Mr. McNett, you
19 had referred Mr. Reed to another job?

20 A. That is correct.

21 Q. Had Mr. Reed contacted you before the referral to the
22 other job?

23 MR. HEARING: Objection, hearsay.

24 JUDGE ROSAS: I'm sorry, repeat that.

25 MS. WALKER: Had Mr. Reed contacted Mr. Bontempo before

1 he referred him to the other job.

2 JUDGE ROSAS: I'll take that but not the substance of
3 the conversation.

4 THE WITNESS: Yes, he did.

5 Q. BY MS. WALKER: Given your history with AMS, would
6 Mr. Reed have a reasonable expectation of recall to AMS?

7 MR. HEARING: Objection.

8 JUDGE ROSAS: Sustained.

9 Q. BY MS. WALKER: When you were a superintendent at AMS,
10 would you recall employees who had been laid off?

11 A. Yes.

12 Q. Are you familiar with Scott Raymond Pearson or Raymond
13 Scott Pearson as an employee of AMS?

14 A. Yes, ma'am, I am.

15 Q. Did you refer Mr. Pearson to AMS?

16 A. Yes, I did.

17 Q. Was he a union member?

18 A. Yes, he was. Yes, he is.

19 Q. Are you familiar with Mark France as an employee of AMS?

20 A. Yes, I am.

21 Q. Was he a union member?

22 A. Yes, he is.

23 Q. Was Mark France from the Florida area?

24 A. No, ma'am. He traveled in from New York.

25 Q. When you referred Mr. France, what project did he go to

1 work on?

2 A. He went to work on the Bethune-Cookman College in
3 Daytona Beach, Florida.

4 Q. Was AMS paying lodging and per diem for employees who
5 traveled in for that job?

6 MR. HEARING: Objection, lack of predicate.

7 JUDGE ROSAS: If you know.

8 THE WITNESS: Yes, they were.

9 Q. BY MS. WALKER: How were you aware that they were paying
10 the per diem and the lodging?

11 A. I was informed by AMS.

12 Q. Who from AMS informed you that lodging and per diem was
13 being paid for the Bethune-Cookman project?

14 A. Mr. Marc Carney and Mr. Aleksei Feliz, Alek Feliz,
15 Feliz.

16 Q. Before a referral was made, would you tell an employee
17 that travel or lodging and per diem were being paid on the
18 Bethune-Cookman job?

19 A. Yes, ma'am.

20 Q. Do you have knowledge that there came a time when AMS
21 notified employees that it would no longer pay for lodging?

22 A. Yes, ma'am.

23 Q. How do you know that?

24 A. I was told by Mr. Carney to inform the guys that were
25 traveling that they were free to go home for the

1 Christmas/New Year break, but they were welcome to come back
2 to the project, but no longer would housing or per diem be
3 offered.

4 Q. Was there a response?

5 A. Yes, because I -- at that time, we were still in the
6 process of even still manning the job to a degree. I told
7 him that by doing this, these folks are not going to travel
8 back. So I was a little confused why you're looking for
9 manpower but yet you're going to cut off the housing and per
10 diem, which you know is going to affect these folks from
11 returning to work.

12 Q. Are you aware of an employee by the name of Robert
13 Harvey who worked at AMS?

14 A. Yes, ma'am, I am.

15 Q. Did you refer Mr. Harvey to AMS?

16 A. Yes, ma'am, I did.

17 Q. Was he a union member?

18 A. Yes, he is.

19 Q. When you referred Robert Harvey, what project did he
20 work on at AMS?

21 A. Bethune-Cookman College, Daytona Beach.

22 Q. At the time you referred him, did you provide
23 notification that AMS was paying lodging for employees on
24 that job?

25 A. Yes, I did.

1 Q. Is Mr. Harvey from the Florida area?

2 A. No, ma'am. I believe him to be from Mississippi.

3 Q. Are you familiar with Robert Pietsch as an employee of
4 AMS?

5 A. Yes, ma'am, I am.

6 Q. Did you refer him to AMS?

7 A. Yes, I did.

8 Q. Is he a union member?

9 A. Yes, he is.

10 **(Charging Party's Exhibit 27 marked for identification.)**

11 Q. BY MS. WALKER: I'd like to refer you to what we've
12 marked as CP Exhibit 27.

13 A. Yes, ma'am.

14 Q. It's also marked Union 001345.

15 A. That is correct.

16 Q. Do you recognize this document?

17 A. Yes, I do.

18 Q. What is this document?

19 A. This is a work referral that I would have sent to the
20 office of AMS to inform them that Robert Pietsch was a union
21 member.

22 Q. Is that your signature as the business agent on this
23 document?

24 A. Yes, ma'am, it is.

25 MS. WALKER: Petitioner moves for the admission of

1 CP-27.

2 MR. HEARING: To be consistent, objection, relevance as
3 to the challenge portion of the case.

4 MS. WALKER: Well, it's also I guess relevant, and I
5 should have made everyone aware that we would also be giving
6 some testimony as regarding to Mr. Pietsch on the objections.

7 JUDGE ROSAS: Okay, overruled.

8 MR. HEARING: I thought that they rested on that.

9 MS. WALKER: No, we can provide rebuttal.

10 JUDGE ROSAS: I asked that counsel delineate where the
11 testimony is coming from. At this point, she's got the last
12 two names here going to overtime.

13 MR. HEARING: My point was I believe that they rested on
14 their objections case and the -- I guess this is being
15 offered as rebuttal?

16 MS. WALKER: Subject to rebuttal after the defense.

17 MR. HEARING: I just want to clarify it's part of that
18 case and not the challenges case.

19 JUDGE ROSAS: My recollection is that the Respondent is
20 now -- after the Respondent rested, the Charging Party was
21 putting in evidence testimony with respect to objections or
22 challenges and would delineate with respect to which aspect
23 they were submitting proof for. I don't recall them having
24 rested with respect to the objections, unless it's something
25 I missed on the record.

1 MR. HEARING: Well, I think that the delineation was at
2 the beginning, that this was for the challenges, and that's
3 my objection as to 27, relevance to the challenges.

4 JUDGE ROSAS: You're saying that this is relevant with
5 respect to the objections?

6 MS. WALKER: I think it's relevant to both. I think the
7 fact that a challenged voter was referred by the Union is
8 relevant for both the challenges as well as animus on the
9 objections.

10 JUDGE ROSAS: That's a sufficient proffer. I'll receive
11 it over objection, Charging Party 27.

12 **(Charging Party's Exhibit 27 received in evidence.)**

13 Q. BY MS. WALKER: Mr. Bontempo, did you send CP-27 to AMS?

14 A. Yes, ma'am, I did.

15 Q. Are you familiar with David Wrench as an employee of
16 AMS?

17 A. Yes, ma'am, I am.

18 Q. Did you refer him to AMS?

19 A. Yes, I did.

20 Q. Is he a union member?

21 A. Yes, he is.

22 Q. Are you aware if he voluntarily quit his employment with
23 AMS?

24 A. Yes.

25 MR. HEARING: Objection, calls for hearsay.

1 MS. WALKER: We've had the witness already testify.

2 JUDGE ROSAS: Subject to connection, overruled. He
3 said, yes, he's aware.

4 Q. BY MS. WALKER: Who told you?

5 A. Mr. Wrench.

6 MR. HEARING: Objection, hearsay.

7 JUDGE ROSAS: Hold on. He testified to that?

8 MS. WALKER: Yes, Your Honor.

9 JUDGE ROSAS: He testified today?

10 MS. WALKER: He did. He was the first witness called by
11 Petitioner today.

12 JUDGE ROSAS: I didn't highlight his name. Okay, there
13 he is. And the question was what?

14 MS. WALKER: The question was -- I believe the question
15 was did he talk to Mr. Wrench.

16 JUDGE ROSAS: With respect to what job?

17 MS. WALKER: With respect to -- I didn't say a job, but
18 with respect to the Bethune-Cookman job.

19 JUDGE ROSAS: Before or at some other time or after?

20 MS. WALKER: After.

21 JUDGE ROSAS: That was covered on direct examination.
22 Overruled. The conversation between that person, Mr. Wrench
23 and Mr. Bontempo. Go ahead.

24 MS. WALKER: What did you discuss with Mr. Wrench --

25 MR. HEARING: Excuse me. Could I have a clarification?

1 JUDGE ROSAS: Sure, let me go back to it. My notes
2 indicate on direct examination, this would be the first
3 witness called by the Charging Party, who indicated that
4 she's be calling this witness with respect to the challenges.
5 And I have here a notation that he contacted the Union for a
6 job when laid off. Okay?

7 MR. HEARING: Yes, sir.

8 JUDGE ROSAS: All right, go ahead.

9 Q. BY MS. WALKER: Did Mr. Wrench contact you for a job
10 after he was laid off at AMS?

11 MR. HEARING: Object to the form.

12 JUDGE ROSAS: Overruled.

13 THE WITNESS: Yes, ma'am, he did.

14 **(Charging Party's Exhibit 19 marked for identification.)**

15 Q. BY MS. WALKER: Mr. Bontempo, I'd like for you to look
16 at what's been identified as CP-19 in front of you.

17 A. Yes, ma'am.

18 Q. Can you identify this document?

19 A. This is a document that's generated from our BACWorks
20 system for reported hours for Mr. John Smith by the Employer.

21 Q. Is there a time period in which this report was
22 generated for those hours?

23 A. Yes, ma'am, from 5/1/2014 to 12/30/2016.

24 Q. I believe is this a program that you have access to as a
25 field representative?

1 A. Yes, ma'am, I do.

2 Q. Are these hours inputted from reports provided by the
3 Employer?

4 A. That would be correct, yes.

5 MS. WALKER: Petitioner moves to have CP-19 introduced
6 into evidence. And this would be relevant to both the
7 objection as to the completeness of the Excelsior list as
8 well as the challenges of Mr. Smith to show that he had a
9 period of working on and off for the Employer.

10 MR. HEARING: I'd just object for the record on
11 relevance.

12 JUDGE ROSAS: Overruled. Charging Party 19 is received.
13 **(Charging Party's Exhibit 19 received in evidence.)**

14 Q. BY MS. WALKER: Are you familiar with Jacob Barlow as an
15 employee of AMS?

16 A. Yes, ma'am, I am.

17 Q. Did you refer him?

18 A. Yes, I did.

19 Q. Is he a union member?

20 A. Yes, he is.

21 Q. Are you familiar with Forrest Greenlee as an employee of
22 AMS?

23 A. Yes, ma'am, I am.

24 Q. Did you refer him?

25 A. Yes, I did.

1 Q. Is he a union member?

2 A. Yes, he is.

3 MS. WALKER: Your Honor, the next testimony is in
4 rebuttal to testimony that we heard in the Respondent's
5 defense of the ULPs and challenges as well as their -- I
6 think it goes more to the defense of the objections and the
7 charges in the complaint, but I'm not positive. It was their
8 testimony. I was just going to have rebuttal evidence.

9 JUDGE ROSAS: All right, let's see how it goes.

10 Q. BY MS. WALKER: Mr. Bontempo, does the Union ever take
11 dues without an authorization card?

12 A. No, ma'am.

13 Q. Have you ever had a conversation with Mr. Carney
14 concerning dues authorizations or fringe benefits?

15 A. Fringe benefit.

16 Q. What was the context of that conversation?

17 A. The context of the conversation was that the
18 contractors' belief, along with Mr. Carney's belief, that
19 they shouldn't be obligated to pay fringe benefits on
20 everyone in the bargaining unit, just the union members.

21 Q. Was he discussing complaints from employees with you?

22 MR. HEARING: Objection, leading.

23 JUDGE ROSAS: Sustained.

24 Q. BY MS. WALKER: Who was he discussing complaints from?

25 A. The Employer.

1 MS. WALKER: That's all I have, Your Honor.

2 MR. HEARING: I guess I need his affidavit again.

3 JUDGE ROSAS: Off the record.

4 (Off the record from 11:58 a.m. to 12:06 p.m.)

5 JUDGE ROSAS: Cross?

6 CROSS-EXAMINATION

7 Q. BY MR. HEARING: You said that you would know within
8 hours of hiring a mason, you could determine their
9 competence. Do you remember that --

10 A. Yes, sir.

11 Q. -- on your direct examination this time around?

12 A. Yes, sir.

13 Q. I'm going to show you your affidavit dated June 16,
14 2016.

15 MR. HEARING: If I may approach.

16 Q. BY MR. HEARING: Your affidavit, sir, you say instead of
17 hours, you say in this industry an employer would know within
18 days if a mason's skills were suitable. Correct?

19 A. That's correct.

20 Q. That's on page -- it's in paragraph, for the record, the
21 sixth page. So why is it that your testimony today has gone
22 from days down to hours?

23 A. 16 hours could be 2 days or referred to as hours.

24 Q. Well, why didn't you say within hours --

25 MS. WALKER: I'm sorry. Did you show him the affidavit?

1 MR. HEARING: I did, yes.

2 MS. WALKER: What paragraph? I don't think I ever
3 heard.

4 MR. HEARING: Okay. It's Paragraph 20. "In this
5 industry, an employer would know within days if a mason's
6 skills were not suitable."

7 MS. WALKER: Thank you.

8 Q. BY MR. HEARING: So why is it that you didn't say within
9 hours in this affidavit to the Board agent?

10 MS. WALKER: Objection. The affidavit was not given to
11 the Board agent.

12 MR. HEARING: Well, it was provided to the Board, wasn't
13 it?

14 MS. WALKER: It was provided to the Board, but it was
15 not a Board agent taking the affidavit.

16 MR. HEARING: I'll rephrase so we can move on.

17 Q. BY MR. HEARING: Why didn't you say in this affidavit,
18 which was prepared by or for you in this case, what you said
19 here on the stand this morning regarding determining
20 competency?

21 A. I don't recall why, why I said hours compared to days on
22 which day.

23 Q. You testified a few minutes ago about a conversation
24 with Mr. Carney regarding dues, about fringe benefits you
25 said; do you remember that?

1 A. Yes, sir, I do.

2 Q. Turning your attention to your affidavit to the Board
3 agent given on June 15th of 2016, at page 8, lines -- let's
4 see where you start with Mr. Carney. It appears to be
5 starting at line 11 down through the end. Read that to
6 yourself, line 11, on page 8, down to the end. And my
7 question is where in there do you relate to the Board agent
8 that Mr. Carney told you that there is a belief the Employer
9 shouldn't be obligated to pay for all employees for fringe
10 benefits.

11 A. That conversation didn't take place at this
12 conversation.

13 Q. In this conversation, you relate that Mr. Carney
14 indicated that he was actually in favor of the Union in that
15 conversation, correct?

16 A. That's correct.

17 MS. WALKER: Objection, exceeds the scope of direct.

18 JUDGE ROSAS: It's sufficiently close enough to the
19 subject matter that you brought up.

20 MR. HEARING: The subject matter that you brought up,
21 you were trying to indicate that Mr. Carney as speaking in
22 favor of the Company, not in favor of the Union. The Company
23 was being obligated to pay for all employees, right?

24 MS. WALKER: Objection. I don't think that was his
25 testimony.

1 JUDGE ROSAS: Let's establish what he testified to.

2 Q. BY MR. HEARING: Do you remember your testimony earlier,
3 just moments ago, right near the end of your testimony that
4 the contractors and Mr. Carney believed that the Company
5 shouldn't be obligated to pay for all employees for the
6 fringe benefits. Do you remember that testimony?

7 A. Yes, not be obligated to pay --

8 Q. Right, not be obligated.

9 A. Yes, sir.

10 Q. You're contending that he made a statement that's not in
11 favor of the Union's position on that, correct?

12 A. On that particular conversation, yes.

13 Q. Right. But in this conversation that you reported in
14 this affidavit, you say he told you I have to say these
15 things in front of the men, but I'm really in favor of the
16 Union, correct?

17 A. Not all his beliefs.

18 Q. So you're contending that Mr. Carney is both in favor of
19 both the Union and the Company?

20 A. I can't speak for Mr. Carney.

21 Q. Well, you were speaking for him earlier when you
22 attributed words to --

23 MS. WALKER: Objection, argumentative.

24 JUDGE ROSAS: Rephrase.

25 Q. BY MR. HEARING: Sure. You were relating something that

1 he said earlier at the end of your testimony on direct,
2 right?

3 A. That's correct.

4 Q. So your contention is, though, that Mr. Carney said that
5 but at the same time you had known him to say that I'm really
6 in favor of the Union?

7 A. That comment was made.

8 Q. The testimony that you gave about Mr. Reed, what job was
9 it that he was on when you claim he was recalled?

10 A. He was laid off when he was recalled. Prior?

11 Q. No. You said that -- you testified that he was laid
12 off.

13 A. Correct.

14 Q. And you said that he was going to be recalled. And when
15 he was recalled, he was already on another job. Remember
16 that testimony?

17 A. Yes, sir, I do.

18 Q. What job was he on?

19 A. He was on a project with OUC. The employer was Pullman
20 Power.

21 Q. It's your belief that he didn't mention he was going to
22 that job to Mr. McNett; is that correct?

23 A. That's correct.

24 Q. You heard Mr. McNett's testimony that Mr. Reed
25 voluntarily quit and went to another job?

1 A. I heard that testimony.

2 Q. Your contention is Mr. McNett wasn't being truthful when
3 he said that?

4 A. I can't speak on the truthfulness of Mr. McNett. But
5 Mr. Reed would have not known about the OUC power
6 plant/Pullman job until he heard it from me. So after he got
7 laid off, he contacted me and when I told him there was
8 another job available. So if he was speaking about a job, it
9 wasn't that job that he ultimately went to work on.

10 Q. Charging Party's 19, Exhibit 19, this one, it should be
11 up there at the top there.

12 A. Yes, sir.

13 Q. These hours that are shown for AMS, for Mr. Smith, do
14 you see those?

15 A. Yes, sir.

16 Q. Those fluctuated from month to month; is that correct?

17 A. Yes, sir.

18 Q. Your belief would have been a standard monthly period of
19 time, if they were working all the full 40 hours, would be
20 approximately 160 hours?

21 A. It could be based on weather and other situations.

22 Q. It would be approximately 160 hours, wouldn't it?

23 A. Yes, sir. I would say that.

24 Q. On here it looks like only two times out of 9 months
25 that he hit the benchmark of 160 hours or higher, correct?

1 A. That's correct.

2 MR. HEARING: No further follow-up.

3 JUDGE ROSAS: Charging Party?

4 MS. WALKER: Very short redirect, Your Honor.

5 **REDIRECT EXAMINATION**

6 Q. BY MS. WALKER: Mr. Bontempo, in looking still at CP-
7 19 --

8 A. Yes, ma'am.

9 Q. -- do the hours of construction employees fluctuate
10 based on various factors?

11 A. Absolutely do.

12 Q. Also on CP-19, do the hours worked on this document
13 reflect only hours worked for AMS?

14 A. No, ma'am.

15 Q. Do the hours on CP-19 reflect only hours worked at the
16 Bethune-Cookman project for AMS?

17 A. No, ma'am.

18 Q. That's all I have. Thank you.

19 MR. HEARING: I have a follow-up on that.

20 **RECROSS-EXAMINATION**

21 Q. BY MR. HEARING: I'm trying to find the statement that
22 you just said. The only hours -- the answer that they don't
23 reflect only hours for AMS, are you referring to the fact
24 that it reflects hours for Pullman Power?

25 A. Yes, sir, that's correct.

1 Q. And then the AMS, your testimony about it doesn't
2 reflect the job, would this reflect the total hours for AMS
3 no matter what jobs it was?

4 A. Yes, sir.

5 Q. Okay, I understand. Thank you.

6 A. You're welcome.

7 JUDGE ROSAS: Okay, nothing else. Thank you, sir,
8 you're excused.

9 THE WITNESS: Thank you, Your Honor.

10 **(Witness excused.)**

11 JUDGE ROSAS: Do you have any other witnesses?

12 MS. WALKER: No, Your Honor.

13 JUDGE ROSAS: So you rest on your --

14 MS. WALKER: On the challenges and the rebuttal.

15 JUDGE ROSAS: The rebuttal as well --

16 MS. WALKER: Rebuttal to the objections.

17 JUDGE ROSAS: -- the proof on the challenges.

18 MS. WALKER: The defense on the challenges, yes,
19 rebuttal on defense on the challenges.

20 JUDGE ROSAS: All right. Does Respondent have any --

21 MR. HEARING: We're going to have some rebuttal
22 witnesses. May we take the lunch hour to get organized?

23 MS. WALKER: Could we have 30 minutes?

24 JUDGE ROSAS: **Off the record.**

25 **(Whereupon, at 12:17 p.m., a lunch recess was taken.)**

1 A F T E R N O O N S E S S I O N

2 (Time Noted: 1:03 p.m.)

3 JUDGE ROSAS: On the record.

4 MR. THOMAS: Respondent recalls Mr. Coy Hale.

5 JUDGE ROSAS: Sir, I remind you, you're still under
6 oath.

7 MR. HALE: Yes, sir.

8 (Whereupon,

9 COY HALE

10 was called as a witness by and on behalf of the Respondent
11 and, after having been duly sworn, was examined and testified
12 as follows:)

13 DIRECT EXAMINATION

14 Q. BY MR. THOMAS: Good afternoon, Mr. Hale.

15 A. Good afternoon.

16 Q. Mr. Hale, yesterday we discussed an employee named
17 Raymond Scott Pearson and his dismissal. I'm not going to
18 rehash that with you. I just want to ask you one further
19 question, and that is at any time after Mr. Pearson's
20 dismissal, did you contact him to discuss a possibility of
21 further work with AMS?

22 A. No, I did not.

23 Q. Nothing further -- well, did he contact you to
24 discuss --

25 A. No.

1 Q. -- additional work?

2 A. No, sir.

3 MR. THOMAS: Nothing further.

4 JUDGE ROSAS: Cross?

5 MS. WALKER: Just briefly.

6 **CROSS-EXAMINATION**

7 Q. BY MS. WALKER: Mr. Hale, were you in charge of manning
8 a job in Orlando, I believe it was the Centennial project for
9 AMS?

10 A. No, ma'am.

11 Q. What is the last job that you were charged with manning
12 for AMS?

13 A. The one that I'm doing now, which is the Marriott AC
14 Hotel.

15 Q. I'm sorry, the Marriott what?

16 A. Marriott AC Hotel.

17 Q. Was there a project in Orlando that AMS had bid on that
18 did not -- where it was not successful?

19 A. No, ma'am.

20 Q. Was there a project at the University of Central Florida
21 that AMS bid on?

22 A. Yes, ma'am.

23 Q. Where is the University of Central Florida located?

24 A. I have no idea. I'm not from around here.

25 Q. Was AMS successful in getting that bid?

1 A. Yes, ma'am, as far as I know we were.

2 Q. What city is the Marriott Hotel in?

3 A. Tampa.

4 MS. WALKER: That's all I have. Thank you.

5 JUDGE ROSAS: Any follow-up?

6 MR. THOMAS: No, sir.

7 JUDGE ROSAS: Thank you, sir, you're excused. I'll ask
8 you to not discuss your testimony with anyone until counsel
9 advises otherwise. Okay?

10 THE WITNESS: Yes, I can.

11 **(Witness excused.)**

12 JUDGE ROSAS: Next witness.

13 MR. THOMAS: The Respondent would recall Mr. Bob Dutton.

14 JUDGE ROSAS: Sir, I'll remind you, you're still under
15 oath.

16 MR. DUTTON: Yes, sir.

17 (Whereupon,

18 **ROBERT DUTTON**

19 was recalled as a witness by and on behalf of the Respondent
20 and, having been previously duly sworn, was examined and
21 testified as follows:)

22 **DIRECT EXAMINATION**

23 Q. BY MR. THOMAS: Good afternoon, Mr. Dutton.

24 A. Yes, sir.

25 Q. Mr. Dutton, again, I'm not going to cover things that

1 you testified about yesterday, but I have a couple of
2 questions on some things a little bit distinct. Do you know
3 an individual by the name of Raymond Scott Pearson?

4 A. Yes, I do.

5 Q. Did there come a time where you supervised Mr. Pearson
6 as foreman?

7 A. Yes, I did.

8 Q. On what job was that?

9 A. Bethune College.

10 Q. Do you recall the dates when you supervised him?

11 A. It would have been in 2015 to several months toward, I
12 think toward the end of it, the latter part of the year.

13 Q. As Mr. Pearson's foreman, did you have the opportunity
14 to observe the quality of his work?

15 A. Yes, I did.

16 Q. How would you describe the quality of his work?

17 A. Questionable, at times.

18 Q. Why do you say that? What leads you to say it was
19 questionable at times?

20 A. He messed up certain areas several times. We had to
21 tear some of his work out. He repaired two places that I --
22 I had him repair two places where he messed the bond up on
23 the brick. And I had talks with him quite a bit.

24 Q. Mr. Dutton, when you say tear some of his work out, what
25 does tearing the work out entail?

1 A. Well, once you lay it, then you start cutting it out,
2 and it takes quite a lot longer to tear it out and replace it
3 than it does to lay it but one time.

4 Q. When you spoke to Mr. Pearson about this, did he have
5 any response to you?

6 A. Said he'd fix it.

7 Q. Did he do that?

8 A. Yeah, I had him fix it.

9 Q. Did he fix it every time?

10 A. All but once.

11 Q. What about the time -- what can you tell us about the
12 time when he did not fix it?

13 A. It was left. It was just a bond issue. Rather than
14 tearing out -- it would have constituted tearing a rather
15 large piece of wall out, so it was actually left and is still
16 there.

17 Q. I want to be clear on what job was this?

18 A. This is on Phase 1 of Bethune-Cookman.

19 Q. As a result of what you saw of his work product, did you
20 take any action with respect to his employment?

21 A. At that point, no, other than later at Phase 2 they
22 had -- when they first started the brick, had a similar bond
23 issue. That was when he was let go for that reason.

24 Q. Did you let him go?

25 A. Yes, sir, myself and Turbo both.

1 Q. Do you have any knowledge of whether he came back to
2 work at AMS at any time?

3 A. I heard that he did.

4 MR. THOMAS: Nothing further.

5 JUDGE ROSAS: Cross?

6 MS. WALKER: Yes, Your Honor.

7 **CROSS-EXAMINATION**

8 Q. BY MS. WALKER: You just testified that you heard that
9 Mr. Pearson had come back to work at AMS. Who did you hear
10 that from?

11 A. Marc Carney.

12 Q. When did Mr. Carney tell you that?

13 A. Probably a couple of weeks after we let him go. I
14 couldn't say for sure.

15 Q. When you say that we let him go, who is the "we"?

16 A. Myself and Brent McNett, Turbo.

17 Q. Did you lay him off?

18 A. What do you mean write him off?

19 Q. Did you lay him off from the --

20 A. No.

21 Q. -- Bethune-Cookman --

22 MR. THOMAS: Object to form.

23 JUDGE ROSAS: Overruled.

24 THE WITNESS: No.

25 Q. BY MS. WALKER: You did not lay him off?

1 A. No.

2 Q. Did you terminate him?

3 A. Yes.

4 Q. So you and Mr. McNett terminated Mr. Hale [sic] from the
5 Bethune-Cookman job?

6 A. Yes.

7 Q. Let me ask you this. Was Mr. Pearson laying block or
8 brick at the Bethune-Cookman job?

9 A. He started on block and then went out to the brick.

10 Q. Was he laying brick when you terminated him?

11 A. Yes.

12 Q. How many folks would be working on a wall or employees
13 would be working on a wall at the Bethune-Cookman project
14 laying brick?

15 A. Depended on the size of the wall. Generally, it depends
16 on -- the particular wall in question there would have been
17 about four masons.

18 Q. You described a wall that you found some issues with
19 that Mr. Pearson was working at Bethune-Cookman; is that
20 correct?

21 A. A piece of the wall.

22 Q. A piece of the wall. How many other masons were working
23 on that particular wall?

24 A. I'm going to say four.

25 Q. I want to make sure I understood the question. Was that

1 particular issue the issue that you testified to about the
2 bonding on the wall?

3 A. Not the one that was left. There was an issue on
4 bonding and not using -- basically, not measuring where it
5 needed to be and the bond was off, which made it not work at
6 the windows.

7 Q. So this is two different instances that we're talking
8 about?

9 A. Yes.

10 Q. Yes. Which one occurred first?

11 A. The one with the bond.

12 Q. The one with the bond. And that was --

13 A. That was on Phase 1.

14 Q. That was on Phase 1. Is that the one where four masons
15 would have been working on?

16 A. Actually, on that one there was about five masons
17 working on that wall, that particular wall.

18 Q. On that particular wall, you said you did not leave the
19 bonding the way it was. It was corrected.

20 A. No, I left that.

21 Q. You left that. You left that particular issue in place
22 even upon turning the project over to the owner; is that
23 correct?

24 A. Correct.

25 Q. And then on Phase 2, you testified about the other

1 incident where there was an issue and a problem with the
2 wall. That one there were four masons working on that wall?

3 A. I'm saying that was, yes.

4 MS. WALKER: That's all I have, Your Honor.

5 MR. THOMAS: No follow-up.

6 JUDGE ROSAS: Thank you, sir. You're excused.

7 THE WITNESS: Thank you.

8 **(Witness excused.)**

9 MR. THOMAS: Respondent would recall Mr. Brent McNett.

10 JUDGE ROSAS: Mr. McNett, I remind you, you're still
11 under oath.

12 MR. McNETT: Okay.

13 (Whereupon,

14 **BRENT McNETT**

15 was recalled as a witness by and on behalf of the Respondent
16 and, having been previously duly sworn, was examined and
17 testified as follows:)

18 **DIRECT EXAMINATION**

19 Q. BY MR. THOMAS: Good afternoon, Mr. McNett.

20 A. Good afternoon.

21 Q. Mr. McNett, yesterday or actually 2 days ago when you
22 testified as a witness, you covered some time when you were a
23 foreman at the Company's Bethune-Cookman job. Do you
24 remember that testimony?

25 A. Yes, sir.

1 Q. What were the days where you were a foreman at
2 Bethune-Cookman?

3 A. From May 2015 till April 2016.

4 Q. As of mid-January 2016, and I'll give a specific date,
5 as of January 15, 2016, how far along was the Bethune-Cookman
6 job in terms of AMS's work?

7 A. Phase 2. We were just starting to do the brick on
8 Phase 2, I'm almost positive. I'm not sure exactly how far
9 along, but we were doing the brick.

10 Q. Do you recall when it was that Phase 2 started?

11 A. Phase 2 started in, let's see, about the end of June,
12 first of July.

13 Q. Of what year?

14 A. 2015.

15 Q. Can you compare the Company's need for masons between
16 Phase 1 of the Bethune-Cookman project and Phase 2 of the
17 Bethune-Cookman project?

18 A. Could you explain --

19 MS. WALKER: Objection. I think this may exceed the
20 scope of the rebuttal evidence.

21 MR. THOMAS: Your Honor, I would respectfully disagree
22 with that. I think there has been a discussion about certain
23 personnel actions happening and going to testify as to those.

24 JUDGE ROSAS: Repeat the question. Go ahead.

25 Overruled.

1 Q. BY MR. THOMAS: Mr. McNett, in terms of AMS's needs for
2 masons at Bethune-Cookman, can you compare the need for
3 masons on Phase 1 compared to Phase 2 of the Bethune-Cookman
4 job?

5 A. We needed masons on both phases.

6 Q. Was there a particular phase where you needed more
7 masons?

8 A. Yeah. Once we get the brick on Phase 2, we needed to
9 put more people on, and we brought everyone that was on Phase
10 1 over to Phase 2.

11 Q. Do you remember when you needed to start with the brick
12 on Phase 2?

13 A. It was at the beginning of January, I think it was.

14 Q. In January 2016, do you know whether AMS hired
15 additional masons for the Bethune-Cookman job?

16 A. After that date?

17 Q. Yes, sir.

18 A. Yes, sir.

19 Q. Do you know how many?

20 A. No, I don't.

21 Q. In January 2016 at the Bethune-Cookman job, did you let
22 any masons go for lack of work?

23 A. No, sir.

24 Q. In February of 2016 at the Bethune-Cookman job, did you
25 let any masons go for lack of work?

1 A. No, sir.

2 Q. In March of 2016 at Bethune-Cookman, did you let any
3 masons go for lack of work?

4 A. Yes, sir -- no. No, sir.

5 Q. In April of 2016 did you let any masons go --

6 A. Yes, sir.

7 Q. -- for lack of work? Let me finish my question.

8 A. Yes, I know. I'm sorry.

9 Q. Let me backtrack one more time to the middle of January
10 in 2016. As of that time on the Bethune-Cookman job, was
11 there still block work left for the masons to do?

12 A. In January?

13 Q. Yes, sir.

14 A. Yes, sir.

15 Q. In January of 2016 was there still brick work left for
16 the masons to do?

17 A. Yes, sir.

18 Q. Would you describe just for the Judge briefly what each
19 type of block and brick work was left to do?

20 A. There was probably 90 percent of the brick work still
21 left to be done, and we had interior 4-inch partitions we
22 were doing because the shell had been done, and we were doing
23 interior bathrooms, cross-walls to split the dormitories up,
24 and we had 4-inch and 8-inch on the interior walls.

25 Q. Mr. McNett, during your time as a foreman at

1 Bethune-Cookman, who was it that determined the needs for
2 masons?

3 A. Myself.

4 Q. Did you ever speak with Mr. Mike Bontempo about AMS's
5 labor needs at Bethune-Cookman?

6 A. No, sir.

7 Q. Did you ever speak with Mr. Bontempo about an individual
8 named George Reed?

9 A. Yes, sir.

10 Q. Do you recall when that conversation took place?

11 A. Probably in March, towards the end of March.

12 Q. Would you describe that conversation for us, please?

13 A. I was talking about George and how I wanted to take him
14 to Tampa with me because he was one of my straw bosses. He
15 was doing more manual labor, building scaffold. And he was
16 going to go to Tampa with us and going to start doing more
17 block work.

18 Q. What was your opinion of Mr. Reed's work?

19 A. It was pretty good. I do not want to get rid of the
20 man.

21 Q. At the time you had this conversation with Mr. Bontempo,
22 was Mr. Reed employed by AMS?

23 A. Yes, sir.

24 Q. Did you discuss Mr. Reed's continued employment with AMS
25 with Mr. Bontempo?

1 A. Yes, sir.

2 Q. What did you tell Mr. Bontempo?

3 A. I told him I wanted to take him to Tampa with me, and
4 he'd be able to lay more block over there.

5 Q. Did Mr. Bontempo have any response?

6 A. No, not really.

7 Q. Mr. McNett, we talked during your previous time on the
8 witness stand about a mason named John Smith. Do you
9 remember Mr. Smith?

10 A. Yes, sir.

11 Q. You discussed, and again I'm not going to rehash, you
12 discussed his dismissal. Was there a particular type of
13 masonry work where Mr. Smith's work product was poor?

14 A. Yes, sir.

15 Q. What was that time?

16 A. When we went into the interior parts of the building and
17 we were doing 4-inch partitions. He had trouble with them,
18 and we had to tear a lot of his walls down.

19 Q. Was that block or brick or --

20 A. It was 4-inch block.

21 Q. I'm sorry, you said 4-inch block?

22 A. Yes, 4-inch block. He had problems with them.

23 Q. In your experience, Mr. McNett, do masons have different
24 levels of proficiency skill?

25 A. Yes, sir.

1 Q. Are some masons good at one type of work and not good at
2 another type of work?

3 A. Yes, sir.

4 Q. Is laying 4-inch block a different skill than something
5 else a mason might be expected to perform?

6 A. Oh, yes, sir.

7 Q. How so?

8 A. 4-inch block is a type of block that if you lay it and
9 you beat on it too much, you could roll, which would be the
10 bottom course would start rolling because you're hitting the
11 top course, putting too much mud on it. It is a hard block
12 to lay.

13 MR. THOMAS: Nothing further.

14 JUDGE ROSAS: Cross?

15 MS. WALKER: Yes, Your Honor.

16 **CROSS-EXAMINATION**

17 Q. BY MS. WALKER: Mr. McNett, just a few questions for
18 you.

19 A. Okay.

20 Q. As the block work or as the brick work on the Bethune-
21 Cookman job was the percent -- strike that. As the brick
22 work or the percentage of brick work on the Bethune-Cookman
23 College job increased, did the percentage of block work
24 decrease?

25 A. Yes, ma'am.

1 Q. Was there any down time between the ending of the
2 Bethune-Cookman job and the beginning of the job in Tampa
3 that you wanted to take Mr. Reed to?

4 A. No, ma'am.

5 Q. Was that the UT job --

6 A. Yes, ma'am.

7 Q. -- in Tampa?

8 A. Yes, ma'am.

9 Q. That you wanted to take Mr. Reed to?

10 A. Yes, ma'am.

11 Q. When did that job start?

12 A. I want to say end of April, first of May. No, it was
13 even probably about the middle of April because on the 16th
14 we had had the exterior just about completed, or we did
15 complete the exterior.

16 Q. That was the end of April, first of May of 2016?

17 A. I would say the middle of April, end of April of '16,
18 yes.

19 Q. Did you leave the Bethune-Cookman job to go to the
20 University of Tampa at that time?

21 A. Yes, ma'am.

22 Q. What superintendent stayed at the Bethune-Cookman job?

23 A. Bob Dutton.

24 Q. Had you discussed with Mr. Reed making him a straw boss
25 on the University of Tampa job?

1 A. No, ma'am. He was already working as my straw boss on
2 the Bethune-Cookman, so he would have been in the same
3 situation, but he would have been working on laying brick and
4 helping with the scaffold. He would have been doing the same
5 he was doing in Bethune.

6 Q. How long had George Reed been your straw boss at
7 Bethune-Cookman?

8 A. The whole time he was there.

9 Q. How many straw bosses do you have on the job?

10 A. One, two -- two. I had one on the interior, and then
11 George was running the floors for me when we were laying the
12 block.

13 Q. Does a straw boss get paid more than a regular mason?

14 MR. THOMAS: Object to the form. Outside the scope of
15 direct.

16 JUDGE ROSAS: I'll allow it.

17 THE WITNESS: He was not getting paid more than a mason.

18 Q. BY MS. WALKER: What was his responsibilities?

19 A. Make sure the scaffold was built properly. Make sure
20 walls were set up. Make sure the cuts were at all the walls.
21 I would lay everything out, and he would follow behind me and
22 cut everything and make sure the guys were getting them
23 there.

24 Q. Had you discussed the University of Tampa job with
25 George Reed?

1 A. Yes, ma'am.

2 Q. During that conversation, you did not tell him that he
3 would be the straw boss for you on that job?

4 A. I told him he would be doing the same thing he's doing
5 now with me and getting to lay some brick.

6 Q. Was he not laying brick on the Bethune-Cookman job?

7 A. No, ma'am. He hadn't been laying block and brick for a
8 while because he's been doing other things, so I wanted to
9 get him more training and get him to do more when he went to
10 the University of Tampa.

11 Q. How long had Mr. Reed been your straw boss?

12 A. I don't know how long it was. He worked there a job
13 before. Like I say, he's worked with me since 1998 off and
14 on, on a lot of jobs.

15 Q. Was he the straw boss on each job that he worked on with
16 you?

17 A. No, ma'am.

18 Q. He was not the straw boss on each job?

19 A. Not in '98, no.

20 Q. When did he start becoming your straw boss?

21 A. Right after we did Penta B (ph.), which was in Ocala, so
22 2001, 2002, he started taking over running my floors.

23 Q. Would he have been laid off at any time between jobs
24 that occurred for AMS?

25 A. I don't know. I do not know, cannot remember.

1 Q. If his personnel records reflected that he had been laid
2 off between jobs working at AMS, would you disagree with
3 those records?

4 MR. THOMAS: Objection, calls for speculation. The
5 witness does not have the records in front of him.

6 JUDGE ROSAS: I'll sustain that. The records will speak
7 for themselves.

8 MS. WALKER: Okay, well, let's see. Mr. McNett, if
9 you'll refer to what's been marked as Charging Party 26(e),
10 please?

11 JUDGE ROSAS: Okay, hold on one second.

12 THE WITNESS: Okay.

13 Q. BY MS. WALKER: I believe you testified that you had
14 been working off and on with George Reed since 1998; is that
15 correct?

16 A. Yes, ma'am.

17 Q. I'm showing you what's been marked as Charging Party
18 26(e), Union 00494 Bates stamp. In looking at this record,
19 do you see any indication that Mr. Reed worked for the
20 Employer prior to October 29th of 2014?

21 A. No, ma'am.

22 Q. Is it your recollection that he was, in fact, an
23 employee for AMS prior to that time?

24 A. Yes, ma'am. He was employed with us before the Karps
25 had bought AMS.

1 Q. And so with your review of CP-26(e), would it be your
2 interpretation of this document that it is not the complete
3 personnel record of Mr. Reed?

4 A. Yes, ma'am. He was gone for a while, and I don't know
5 what the dates were because he went back to prison. And then
6 he come back to work with us on this date after a long period
7 of time.

8 MS. WALKER: Thank you. That's all I have, Your Honor.

9 **REDIRECT EXAMINATION**

10 Q. BY MR. THOMAS: Just one quick follow-up, Mr. McNett.
11 Looking at Charging Party Exhibit 26(e), did you have any
12 role in putting this together?

13 A. No, sir.

14 Q. Is any of this your handwriting?

15 A. No, sir.

16 MR. THOMAS: I don't have anything further.

17 JUDGE ROSAS: Anything else?

18 MS. WALKER: No, Your Honor.

19 JUDGE ROSAS: Thank you, sir. You're excused.

20 **(Witness excused.)**

21 JUDGE ROSAS: Next witness?

22 MR. HEARING: We'll recall Alek Feliz.

23 JUDGE ROSAS: I'll remind you, you're still under oath.

24 (Whereupon,

25 **ALEKSEI FELIZ**

1 was recalled as a witness by and on behalf of the Respondent
2 and, having been previously duly sworn, was examined and
3 testified as follows:)

4 **DIRECT EXAMINATION**

5 Q. BY MR. HEARING: Sir, your name has come up this
6 afternoon in relation to John Smith, a mason that worked on
7 the Bethune-Cookman job.

8 A. Yes, sir.

9 Q. Do you know who he is?

10 A. Yes, I know who he is.

11 Q. Did you have a conversation with him after his
12 employment with AMS ended, after the Bethune-Cookman job?

13 A. I did.

14 Q. Tell us about that.

15 A. Actually, he contacted me looking for employment, and I
16 told him that we have several projects in Orlando that I
17 could possibly put him on.

18 Q. Did you know the circumstances of his separation from
19 AMS?

20 A. Yes, sir.

21 Q. What were they?

22 A. Well, he was not able to lay the 4-inch block that was
23 required.

24 MS. WALKER: Objection -- well, never mind. Withdrawn.

25 Q. BY MR. HEARING: When he contacted you and you talked

1 about other jobs, did you talk about the type of work it
2 would be?

3 A. He asked me what type of work was it.

4 Q. What did you tell him?

5 A. I told him that we had 8-inch block to lay.

6 Q. Had you ever heard that Mr. Smith had had any issue with
7 laying 8-inch block?

8 A. No.

9 Q. Did you assist with him getting reemployed?

10 A. I did. I put him to work, yes, sir.

11 Q. He has testified that he was a member of the Union. Did
12 you know he was a member of the Union?

13 A. I don't care about those facts. No idea, no.

14 Q. Did you ask him?

15 A. I did not, sir, no.

16 Q. This hiring recently, he testified his recollection
17 about when he was recently hired, Mr. Smith did. What is
18 your recollection as to when he was recently rehired by AMS?
19 How long ago did you have this conversation, in other words?

20 A. Perhaps 2, 3 months ago, sir.

21 Q. After January of 2016, you testified I think it was
22 yesterday or whenever your second testimony was, you
23 testified you had in part human resources responsibilities
24 for the Bethune-Cookman job.

25 A. I do, yeah.

1 Q. You testified about housing and a hotel. It was in
2 relation to another individual, Mr. Harvey, I think.

3 A. I did.

4 Q. I'm not going to go into that. What I want to ask you
5 about is did you -- after January of 2016, were you still
6 assisting with the bringing on of masons for the Bethune-
7 Cookman job and placing them in hotels?

8 A. Yes, sir.

9 Q. Do you remember anybody in particular that you did that
10 for?

11 A. I remember the Camacho brothers.

12 Q. Who are they?

13 A. They were masons that were working in the Sarasota,
14 Tampa area, and because of the needs of employment in
15 Daytona, I asked them if they wanted to go to Daytona Beach.
16 They said yes. They asked me for per diem and hotel rooms,
17 which I said that I agree to that, and I put them to work.

18 Q. Around what period of time was this?

19 A. That must have been late January, early February.

20 Q. Of what year?

21 A. 2016.

22 Q. I think I recall, to tie it in, when you testified I
23 think the first time about a meeting with Hispanic employees,
24 did you name these Camacho brothers?

25 A. Yeah, that was the same gentlemen, yes.

1 Q. But that was much later. I think you said that was in
2 May or something of 2016.

3 A. Yes, sir. Yes, sir.

4 Q. Were you aware of any other hirings for the BCU job
5 after the middle of January of 2016?

6 A. Yes, sir.

7 Q. What do you recall or know about that?

8 A. I believe that I was asked to bring more tenders, which
9 are the people that help the masons.

10 Q. Just so we're clear on the record, how do they help the
11 masons?

12 A. They assist the masons do their work. A mason cannot do
13 the work if they don't have an assistant to help them.

14 Q. Do you recall anybody by name, like you recalled the
15 Camacho brothers?

16 A. The Camacho brothers would work with two other gentlemen
17 that I think were friends with. It was a group of four,
18 perhaps Pedro Hernandez. I don't know the names.

19 MS. WALKER: Objection, Your Honor. I don't think this
20 was covered with direct. And if it's going toward anything
21 related to the objections or the charges in the complaint, I
22 think it's exceeding the scope.

23 JUDGE ROSAS: What's this relevant to?

24 MR. HEARING: This goes to the -- our burden on the
25 challenged ballots.

1 MS. WALKER: Okay.

2 MR. HEARING: And the testimony from -- this is
3 particularly to rebut Mr. Wrench's testimony about being laid
4 off.

5 JUDGE ROSAS: Okay.

6 Q. BY MR. HEARING: You were identifying the names of the
7 tenders that were hired after the middle of January 2016. I
8 think you said one name.

9 A. Pedro Hernandez. The only reason I recall that is
10 because he was with the Camacho brothers.

11 MR. HEARING: That's all I have on direct.

12 JUDGE ROSAS: Cross?

13 MS. WALKER: Yes, Your Honor.

14 **CROSS-EXAMINATION**

15 Q. BY MS. WALKER: How are you aware of Mr. Smith's
16 employment at Bethune-Cookman?

17 A. Possibly because I employ him.

18 Q. So you employed him at Bethune-Cookman?

19 A. Very possibly.

20 Q. Possibly or you know?

21 A. I'm going to say that I employ 95 percent of the people
22 there, so very possibly I did.

23 Q. But you don't have a direct recollection of employing
24 John Smith at the Bethune-Cookman project, correct?

25 A. I do not, ma'am.

1 Q. You do not have any direct knowledge of a reason why he
2 would be discharged from the Bethune-Cookman job; is that
3 correct?

4 A. I would actually.

5 Q. You have direct knowledge?

6 A. It would be communicated to me why he --

7 Q. Okay, that's communication. Did you see or were you on
8 the jobsite?

9 A. No, ma'am, I was not.

10 Q. Thank you. You testified about the employment of, I
11 believe you referred to them as the Camacho brothers at the
12 Bethune-Cookman job; is that correct?

13 A. Yes, ma'am.

14 Q. Had the Camacho brothers been laid off from any other
15 job prior to that from AMS?

16 A. I can't remember. I'm sorry.

17 Q. How did you know that the Camacho brothers were in need
18 of work at the Bethune-Cookman jobsite?

19 A. Well, they were already employed with us.

20 Q. They were employed at AMS. What jobsite had they been
21 at prior to Bethune-Cookman?

22 A. Sarasota National project rings a bell.

23 Q. How long had the Camacho brothers worked for AMS before
24 Bethune-Cookman?

25 A. I don't know the answer to that, ma'am.

1 Q. I believe that we've had testimony in this hearing that
2 AMS knew when it bid on the Bethune-Cookman project that it
3 was going to send some of its regular employees to man that
4 project; is that correct?

5 A. I don't recall saying that, no.

6 Q. You don't recall being in any conversation with
7 Mr. Ronald Karp about how that job would be manned?

8 A. Not specifically in that terms, no.

9 Q. Do you recall having any conversations with estimators
10 at AMS as to how that job would be manned if AMS was
11 successful in getting that job?

12 A. Possibly, yes.

13 Q. Would that involve manning it with employees that
14 regularly work for AMS?

15 A. Very possibly, yes.

16 MS. WALKER: That's all I have, Your Honor.

17 MR. HEARING: I have no follow-up.

18 JUDGE ROSAS: Thank you, sir. You're excused. Do not
19 discuss your testimony with anybody until you are told
20 otherwise.

21 THE WITNESS: Thank you.

22 **(Witness excused.)**

23 MR. HEARING: I need a few minutes, Judge, to get an
24 exhibit. May I step out?

25 JUDGE ROSAS: Sure.

1 (Off the record from 1:39 p.m. to 1:46 p.m.)

2 JUDGE ROSAS: On the record.

3 Who are you recalling?

4 MR. HEARING: Yolanda Phelps.

5 JUDGE ROSAS: Ma'am, I'll remind you, you're still under
6 oath.

7 (Whereupon,

8 YOLANDA PHELPS

9 was recalled as a witness by and on behalf of the Respondent
10 and, having been previously duly sworn, was examined and
11 testified as follows:)

12 DIRECT EXAMINATION

13 Q. BY MR. HEARING: Ms. Phelps, did you have your staff
14 back at AMS send to me some covers from some AMS personnel?

15 A. Yes, sir.

16 Q. Would you be able to identify them if I showed them to
17 you?

18 A. Yes, sir.

19 Q. I'm going to show you what is Respondent's 61 first.

20 (Respondent's Exhibit 61 marked for identification.)

21 MR. HEARING: May I approach?

22 Q. BY MR. HEARING: What is Respondent's 61?

23 A. It's Salvador Camacho, and it's the front cover of his
24 employee record.

25 Q. Does it have your handwriting on it?

1 A. Yes, it does.

2 Q. Where would your handwriting be?

3 A. Where it says the 1/25/16, and the very next line after
4 that are my handwriting.

5 Q. I think you said 1/25/16. Do you mean --

6 A. 1/28/16.

7 Q. This is the cover of the personnel record for Salvador
8 Camacho that's maintained in the AMS offices?

9 A. That's correct.

10 MS. WALKER: Objection, Your Honor, to the extent that
11 this is going to be offered. I think it exceeds the scope
12 of, certainly of my defense questions and the evidence put
13 forth on my defense of the challenges. Mr. Camacho is not a
14 challenged ballot in this election.

15 JUDGE ROSAS: Do you want to proffer?

16 MR. HEARING: Yes, sir. It's offered to rebut the
17 testimony of Mr. David Weaver that he was laid off. This
18 would show that masons were hired and transferred to the
19 Bethune-Cookman job after the middle of January 2016, when
20 he's testified he was laid off, which as you know is in
21 dispute -- did I say Wrench? Oh, I said David Weaver. I
22 meant David Wrench.

23 JUDGE ROSAS: Anything else?

24 MS. WALKER: I think it's irrelevant. And it also does
25 not show whether or not this gentleman worked past the date

1 on the record, and we've already had testimony from the
2 witness --

3 JUDGE ROSAS: Well, you don't want to elaborate on that
4 yet. Hold on. Where in this record does it refer to
5 Bethune-Cookman?

6 MR. HEARING: On this, it does not. It shows he was
7 hired in Sarasota National, which was the testimony that we
8 just had, and then that he was transferred over to Bethune-
9 Cookman.

10 MS. WALKER: It does not show that.

11 MR. HEARING: That's what the testimony of Mr. Feliz
12 was. And so this is to bolster his initial hire date and
13 establish for the record when it was, to show it was after
14 the date that Mr. Wrench says he was laid off.

15 JUDGE ROSAS: I see the tiniest connection. I'll
16 overrule the objection. You can answer.

17 Q. BY MR. HEARING: Does this reflect an initial hire date
18 of Salvador Camacho as a mason?

19 A. Yes, sir.

20 Q. What is the initial hire date?

21 A. 1/28/16.

22 Q. You don't have any knowledge where he went from Sarasota
23 National, do you?

24 A. No, sir.

25 Q. Now moving onto Respondent's Exhibit 62 for

1 identification purposes.

2 MR. HEARING: I think I did move into evidence, and I
3 think you overruled it, is that correct, Judge, you overruled
4 their objection?

5 JUDGE ROSAS: Respondent's 61 is received.

6 **(Respondent's Exhibit 61 received in evidence.)**

7 MR. HEARING: For identification purposes, I have a
8 composite exhibit, Respondent's 62. May I approach?

9 **(Respondent's Exhibit 62 marked for identification.)**

10 Q. BY MR. HEARING: Take a moment to look at that, and see
11 if that's something you asked your office to send to me this
12 afternoon.

13 JUDGE ROSAS: Do you have a bunch more of these?

14 MR. HEARING: This is it.

15 THE WITNESS: Yes, it is.

16 MR. HEARING: This is four of them, Judge, four
17 different individuals, a composite.

18 Q. BY MR. HEARING: Can you tell us what is the first page?

19 A. The first person is -- the first page is of R-62 is
20 Pedro Hernandez.

21 Q. What's the second page?

22 A. Pedro Lopez.

23 Q. Third page?

24 A. Ramon Camacho.

25 Q. And there is a fourth page?

1 A. Armando Camacho.

2 Q. Do these documents bear your handwriting?

3 A. Yes, sir.

4 Q. Are these the personnel covers like what we saw this
5 morning --

6 A. Yes, sir.

7 Q. -- that you testified about. And these are maintained
8 in the AMS office?

9 A. That's correct.

10 MR. HEARING: Move the introduction of Respondent's
11 Exhibit 62.

12 JUDGE ROSAS: All for the same previous reason?

13 MR. HEARING: Yes, sir.

14 JUDGE ROSAS: Same objection?

15 MS. WALKER: No objection, Your Honor.

16 JUDGE ROSAS: Respondent's 62 is received.

17 **(Respondent's Exhibit 62 received in evidence.)**

18 Q. BY MR. HEARING: For the record, so that we're clear on
19 the record, this first page on 62 for Mr. Pedro Hernandez
20 references 1/28/16 tender. Does that mean that he was hired
21 as a tender on that date for and assigned to Sarasota
22 National?

23 A. That's correct.

24 Q. And you don't know where he went from there, do you?

25 A. No, sir.

1 Q. Then after the second page, there is a reference to
2 Pedro Lopez, a hire date of 1/28/16 as a tender at Sarasota
3 National. Is that what that reference means?

4 A. That's correct.

5 Q. And you don't know where he went from there?

6 A. No, sir.

7 Q. The third page, there is a reference to Ramon Camacho
8 being hired 1/28/16 as a mason and being assigned to Sarasota
9 National; is that correct?

10 A. That's correct.

11 Q. You don't know where he went from there?

12 A. No, sir.

13 Q. And the finally the last page, Mr. Armando Camacho, is
14 there a reference on there as to his hire date?

15 A. Yes.

16 Q. What is it?

17 A. 1/28/16.

18 Q. As a mason?

19 A. Yes, sir.

20 Q. And assigned to Sarasota National?

21 A. That's correct.

22 Q. Do you know where he went from there?

23 A. No, sir.

24 Q. Another area I need to ask you about, Ms. Phelps, is
25 what's your practice with regard to maintaining files that

1 are dated?

2 A. We keep them 7 years.

3 Q. Seven years, okay. Are parts of the file that exceed
4 that period of time, are they purged?

5 A. They are -- yeah, they're put in a box, and then we go
6 ahead and shred them, send them to a shredding company.

7 MR. HEARING: That's all I have.

8 JUDGE ROSAS: Any cross?

9 MS. WALKER: Yes, Your Honor.

10 **CROSS-EXAMINATION**

11 Q. BY MS. WALKER: Referring back to what was marked and
12 admitted as Respondent's Exhibit 61, does that exhibit
13 reflect a transfer of Mr. Salvador Camacho to any jobsite at
14 AMS?

15 A. This particular?

16 Q. Yes.

17 A. It just shows when he was hired and where he went when
18 he was hired.

19 Q. Does AMS maintain records showing when an employee is
20 transferred between jobsites?

21 A. We would have it on a time sheet.

22 Q. Tender is a different classification than mason; is that
23 correct?

24 A. That's correct.

25 MS. WALKER: That's all I have, Your Honor.

1 JUDGE ROSAS: Anything else?

2 MR. HEARING: No follow-up, Your Honor.

3 JUDGE ROSAS: Just a question. Is tender
4 interchangeable with laborer, or is that different from
5 laborer?

6 THE WITNESS: It's more skilled. It's the upper hand of
7 a laborer.

8 JUDGE ROSAS: So it's actually listed, a paid
9 classification other than mason and laborer?

10 THE WITNESS: We consider it as a second tier up from
11 the laborer. But they can be -- I mean it is labor, I guess
12 interchangeable with laborer.

13 JUDGE ROSAS: So if there are references throughout this
14 short story this week to laborers, it could also be tenders,
15 right?

16 THE WITNESS: That's correct.

17 JUDGE ROSAS: Okay, thank you.

18 **(Witness excused.)**

19 MR. HEARING: Nothing further from the Respondent.

20 MS. WALKER: Nothing from Petitioner.

21 JUDGE ROSAS: So we're concluded with the evidence and
22 the testimony, correct?

23 MR. HEARING: And you can make your flight.

24 MS. WALKER: Absolutely, thank you.

25 JUDGE ROSAS: Any references to at this point the

1 parties' intentions to cite any particular or ask that I take
2 administrative notice of any particular regulations outside
3 of the National Labor Relations Act, if there are, apprise
4 each other before you submit your briefs. That's one
5 practice that I ask because there's no second -- there's no
6 reply briefs in these proceedings. I just want to make sure
7 that you're all on notice. You're on notice as to everything
8 that's put into this record, but you're entitled to ask me to
9 take administrative notice or to refer to condition notice in
10 Article III court, but I like the parties to have advance
11 notice of that so they can brief any issues that might come
12 up, workmen's comp proceedings, OSHA regulations.

13 MR. HEARING: Exactly. That's fine.

14 JUDGE ROSAS: Things of that sort. So I'd like
15 everybody to kind of be on the up and up so there are no
16 requests for supplemental briefs or anything like that
17 because it's not going to be granted.

18 If there is nothing else, that concludes the testimony
19 and the evidence that's submitted in this case. Counsel will
20 be given an opportunity to submit post-hearing briefs
21 containing recommended proposed findings of fact and
22 conclusions of law. The parties will be given until
23 March 17, 2017, to submit such briefs. The parties will
24 refer to the Board's Rules and Regulations for the submission
25 of such briefs. In the event there is a need on the part of

1 anyone to request an extension, the request is submitted to
2 the Chief Judge or the Deputy Chief Judge stating the
3 position of the other parties and the basis for the request
4 for the extension.

5 There being nothing else, off the record. The trial is
6 now closed.

7 **(Whereupon, at 1:58 p.m., the hearing in the above-entitled**
8 **matter was closed.)**

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1 **CERTIFICATION**

2 This is to certify that the attached proceedings before
3 the National Labor Relations Board (NLRB), Region 12, in the
4 matter of **ADVANCED MASONRY ASSOCIATES, LLC, d/b/a ADVANCED**
5 **MASONRY SYSTEMS**, Case No. 12-RC-175179 and 12-CA-176715, at
6 Tampa, Florida, on February 10, 2017, was held according to
7 the record, and that this is the original, complete, and true
8 and accurate transcript that has been compared to the
9 recording, at the hearing, that the exhibits are complete and
10 no exhibits received in evidence or in the rejected exhibit
11 files are missing.

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16 _____

17 Ann Connell

18 Official Reporter
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